IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 1150 of 2000()

CRA.57/1999 of SESSIONS COURT, KOLLAM
CC.566/1995 of THE MUNSIFF MAGISTRATE COURT, PARAVOOR
.....

REVN. PETITIONER/APPELLANT/ACCUSED:

JEROME,S/O.SEBASTIAN,HOUSE NO.48, SANTHINAGAR COLONY, POLYATHODU, KOLLAM.

(REVISION PETITIONER IS THE APPELLANT IN CRL.APPEALNO.57/99 OF THE SESSIONS COURT, KOLLAM AND THE ACCUSED IN C.C.NO.566/95 OF THE MUNSIFF MAGISTRATE COURT, PARAVOOR)

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS/RESPONDENT/COMPLAINANT:

1.ANGEL ALBINS/O.MARIAN ALBIN,
ANGEL DALE, NORTH ADIKKADU,
ERAVIPURAM, KOLLAM.

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

(THE RESPONDENTS HEREIN ARE THE RESPONDENTS IN CRL.A.57/99 OF THE SESSIONS COURT, KOLLAM AND THE 1ST RESPONDENT IS THE COMPLAINANT IN C.C.566/1995 OF THE MUNSIFF MAGISTRATE COURT, PARAVOOR).

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal R.P.No.1150 OF 2000 (A)

Dated this the 26th day of September, 2007

O R D E R

Appellant was convicted and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.20,000/- as compensation under Section 357 of Code of Criminal Procedure for offence punishable under Section 138 of the Negotiable Instruments Act. The allegation was that on 17.11.1991, at about 10 a.m., the accused and his wife visited the house of the complainant and requested a loan of Rs.1,00,000/- for the purpose of purchasing a building and property. He promised to return the amount in the year 1992 March. Complainant therefore, informed to the accused that he will give the amount on 18.11.1991. On 18.11.1991, complainant had given Rs.84,700/- to the accused for that accused issued four cheque leaves dated 20.3.1992, 23.3.1992 and 24.3.1992 drawn on S.B.T. Anandavalleeswaram Branch. The complainant presented the cheque No.MSP/XXA 861522 for

encashment through Indian Bank, Mundakkal Branch. But it was dishonoured on the ground of insufficiency of funds in the account of the accused. After dishonouring the cheque, complainant issued a lawyer notice intimating the reason of dishonour and directed to settle the account. The accused after receiving the notice did not settle the account. Therefore after complying the statutory formalities, he approached the Court. Even though under 313 statement he denied the allegations, no defence evidence was adduced. PW1 is the complainant. He proved the allegation therein. PW2 is the Manager, S.B.T, Anandavalleeswaram Branch. It is stated that cheque issued was dishonoured for insufficiency of funds. Ext.P2 is the dishonour memo. Exts.P3 to P6 shows that statutory notices were issued in time. Considering the evidence adduced, both trial court and appellate court concurrently found that accused is guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and imposed Rigorous Imprisonment for one year and a fine of Rs.20,000/- as compensation. Considering the nature of offence and the evidence adduced, I am of the opinion that no

interference regarding conviction is necessary in the exercise of revisional jurisdiction. The court below has appreciated the evidence and found him guilty. However, I reduce the punishment of imprisonment from one year to one month with compensation amount of Rs.20,000/- and compensation amount shall be paid to PW1. I also order that the compensation amount if not already realised can be realised by resorting to the provisions of Section 421 read with Section 431 of Cr.P.C. Accordingly this revision petition is disposed of.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.R.P.1150 OF 1998

O R D E R

26th September, 2007